APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,784	06/05/2001	Edward Alun Sketch	200-1320 DBK	9107

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BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238

EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
09/681,784</td><td>Applicant(s)
SKETCH, EDWARD ALUN</td></tr>
<tr><td>Examiner
Susanna M. Diaz</td><td>Art Unit
3623</td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 October 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>18 October 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a)☐ All　b)☐ Some *　c)☐ None of:

　　1.☐ Certified copies of the priority documents have been received.

　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   This final Office action is responsive to Applicant's amendment filed October 18,

2005.

Claims 1, 15, and 20 have been amended.

Claims 1-20 are pending.

2.   The previous objection to the drawings is withdrawn in response to Applicant's

submission of a corrected Figure 4, which has been approved.

The previous objections to the specification are withdrawn in response to

Applicant's amendments to the specification.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   **Claims 1-9, 13, 15-16, 18, and 20 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Saba Software Learning Management System from 1997-

2000 aspects of which are evidenced by the following references:

I.   Saba Software web page from 6/21/2000: "Saba Learning Network,

Enterprise Series"; hereafter referred to as Reference A.

II.   Burriesci, J. "It's All About The Knowledge" Intelligent Enterprise, August 24,

      1999, pages 10 and 12; hereafter referred to as Reference B.

III. "Red Hat To Offer Saba Learning To Meet Global Training Needs" Business

      Wire, July 24, 2000; hereafter referred to as Reference C.

IV.   Khirallah, D.R. "Veterans Agency Turns To Online Training" Information

      Week, March 27, 2000, page 83; hereafter referred to as Reference D.

V.   Saba Software web page from 6/7/2000: "Saba Competency Content

      Alliance"; hereafter referred to as Reference E.

VI.   Saba Software web page from 5/10/2000: "Saba Learning Exchange";

      hereafter referred to as Reference F.

VII. Rice, D. "Hyundai Revs Training With Saba" IT Support News, June 2000,

      pages 18 and 20; hereafter referred to as Reference G.

VIII. Rice, D. "techies.com Signs On With Saba" IT Support News, August 2000,

      page 22; hereafter referred to as Reference H.

Regarding claims 1-2, 15, 18, 20, Saba Software teaches a learning management

system comprising:

- Defining and/ or receiving input regarding an employment function and preferred

   method of learning. Reference A, lines 8-9 teaches learners have a role

   (employment function) that they define when targeting knowledge profiles and

   assessing their knowledge. Reference B, page 10, column 1, line 34 to column

   2, line 7 teaches that the content can be in different formats and uses profiling to

tailor lessons to learning styles. Reference C, line 12 teaches that the learner

sets up a profile in the system.

- Assessing functional competency based on the employment function via an

  online self-assessment.   Reference A, lines 8-9 teaches learners have a role

  (employment function) that they define when targeting knowledge profiles and

  assessing their knowledge. Reference D, column 3, lines 6-8 teaches skills

  assessment tests online.

- Identifying gap(s) between an assessed functional competency and a predefined

  competency required for the employment function. Reference A, lines 1-5 and 8

  teaches a comprehensive application that measures and closes critical

  knowledge gaps for individuals and groups by targeting required knowledge for

  their role. Reference E, lines 4-6 teaches a competency gap analysis that

  focuses education efforts. Reference D, column 1, lines 43-47 teaches tests and

  skills analysis to measure knowledge gaps needed for a particular job.

  Reference C, lines 13-14 teaches establishing a user profile, identify gaps, and

  obtain the appropriate learning.

- Querying a database of available learning solutions to locate a learning solution

  that (i) is currently a best-in-class learning solution for reducing the at least one

  competency gap, and (ii) best matches the employee's preferred method of

  learning. Reference A, lines 21-22. Reference B, page 10, column 1, line 34 to

  column 2, line 7 teaches that the content can be in different formats and uses

  profiling to tailor lessons to learning styles.

- Automatically defining a development plan for the employee including learning solution identified with the query. Reference A, lines 21-22. Reference B, page 10, column 1, line 34 to column 2, line 7 teaches that the content can be in different formats and uses profiling to tailor lessons to learning styles.

- Identifying at least one learning solution that is in accordance with the preferred method of learning. Reference B, page 10, column 1 line 34 to column 2, line 7 teaches content can be in different formats and collaborative profiling tailors lessons to individual learning styles and preferences.

Regarding claims 1, 15, and 20, while Saba Software queries a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning (e.g., finds available training opportunities via a Web-based environment), Saba Software does not expressly teach that the querying is dynamic *per se*. However, Official Notice is taken that it old and well-known in the art of database management to dynamically query databases in order to improve the likelihood of one having access to the most up-to-date information available. Since Saba Software is marketing its service to the public and boasts the ability to "quickly find best-of-breed learning offerings to close knowledge gaps" (Reference A, lines 21-22), the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Saba Software to *dynamically* query a database of available learning solutions to locate a

learning solution that (i) is currently a best-in-class learning solution for reducing the at

least one competency gap, and (ii) best matches the employee's preferred method of

learning in order to improve the likelihood of one having access to the most up-to-date

information available, thereby increasing customer satisfaction with Saba Software.

As per claim 2, Saba Software does not expressly teach that "the at least one

learning solution comprises classroom, software, online and on-the-job training learning

activities." Official notice is taken that it is old and well-known in the art at the time of

invention that learning solutions may comprise many different methods including:

classroom, software, online, and on-the-job training activities. It would be obvious to

one of ordinary skill in the art to modify Saba Software to offer multiple learning

methods for the advantage of efficiency of training.

Regarding claims 3-7, Saba Software teaches a learning management system

comprising:

- Evaluating a learning solution (Reference F, lines 9-10... teaches sharing of

  impressions about learning solutions and reading reviews from others) and

  posting these evaluations online for others to review interactively (Reference F,

  lines 7-10... teaches chatting and sharing ideas online with other learners about

  different learning offerings) after completion of a learning activity.

- Evaluating best practices for implementing a learning solution and identifying

  implementation roadblocks after completion of a learning activity (Reference F,

lines 7-10... teaches chatting and sharing ideas online about different learning

offerings and read reviews (positive aspects, difficulties, obstacles) of learning

solutions).

Regarding claim 16, Saba Software teaches a learning management system

comprising:

- A configuration to receive input defining interactive assessment content

   (Reference F, lines 7-10... teaches sharing of impressions about learning

   solutions and reading reviews from others).

- A configuration to receive input defining learning solution content (Reference F,

   lines 1-4... teaches a global network to find learning offerings listed by industry,

   role, certification, and competency).

- A configuration to receive input defining competency level requirements for the

   employment function(s) (Reference E, lines 4-6... teaches integrating

   competency libraries for gap analyses and to focus education efforts).

Regarding claims 8-9, 13, Saba Software teaches a learning management

system comprising:

- Completing online testing to assess knowledge transfer. Reference C, lines 13-

   14 teaches all courses and progress will be tracked, and there will be pre-and

   post-gap analysis assessments.

- Mining/ searching evaluation data to identify and make learning solution improvements. Reference C, lines 13-14 teaches tracking and performing assessments to plan and deploy future course offerings.

- Assessing functional competency for an employment function other than an employee's current function. Reference H, page 23, column 1, lines 42-49 teaches the ability to compare own skills to other in-demand jobs, see what gaps exist and recommend learning.

5.   **Claims 10, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saba Software as applied to claims 1-10, and 13 and in further view of Collegebytes.com (1999)**

<u>Regarding claims 10, 17, and 19</u>, Saba Software teaches a learning management system that allows for the assessment of participants and their function, the ability to create a gap analysis, and a set of learning solutions to close the gap identified. Saba's systems comprises the ability to:

- Mine by employment function, competency assessment, competency gap, and evaluation data. Reference A, lines 1-3, 14, 15, and 17 teaches targeting required knowledge profiles for role(s) (employment functions) within a group or an individual, assessing knowledge gap(s), and tracking (searching) results for the group or individual(s).

Saba Software's learning management system does not expressly teach:

- Acquiring or selling learning solutions in an online auction format.

Collegebytes.com (1999) teaches a computer-based system that sells textbooks via an online auction format. Collegebytes.com and Saba Software are in the analogous art of providing products and services to students. It would be obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Saba Software and collegebytes.com to create a system and method to sell learning solutions via an online auction format for the advantages of an efficient marketplace.

6. **Claims 11-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saba Software as applied to claims 1-10, and 13 and in further view of Tuttle (U.S. Patent 6,591,246)**

Regarding claims 11-12 and 14, Saba Software teaches a learning management system that allows for the assessment of participants and their functional competencies, the ability to create a gap analysis, and a set of learning solutions to close functional competency gaps identified.

Saba Software's learning management system does not expressly teach:

- Mining online assessment data to identify preferred functional competencies for new employees.

- Mining/ searching online assessment data to select current employees for employment opportunities.

- Mining assessment data to select groups of employees for functional competencies necessary to perform a group-orientated task.

Tuttle teaches a computer-based system that creates a database of assessments and analyses of skills of the workforce that can be analyzed to determine capability gaps that can be used in recruiting and training decisions. The system comprises:

- Mining online assessment data to identify preferred functional competencies for new employees (column 1, lines 5-11).

- Mining/ searching online assessment data to select current employees for employment opportunities (column 1, lines 29-32).

- Mining assessment data to select groups of employees for functional competencies necessary to perform a group-orientated task (column 1, lines 43-46).

Saba Software and Tuttle are analogous arts in the field of employee/ workforce capability assessment and improvement. It would be obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Saba and Tuttle to enable a system that could assess the capabilities of their employees and identify individual or groups of employees to be selected for employment opportunities and tasks for the advantage of convenience in a single system.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Susanna M. Diaz
Primary Examiner
Art Unit 3623

December 28, 2005